

OFFICE OF THE CLERK  
**UNITED STATES COURT OF APPEALS**  
FOR THE FIRST CIRCUIT

RICHARD CUSHING DONOVAN  
CLERK

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**NOTICE OF PROPOSED AMENDMENT TO LOCAL RULE 27**  
**AND INTERNAL OPERATING PROCEDURE V**

The United States Court of Appeals for the First Circuit hereby provides notice that it proposes the attached amendments to Local Rule 27 (“Motions”) and Internal Operating Procedure V (“Motion Procedures”). Additions are noted in *italic* print; deletions are shown in ~~strike-out~~ print.

A proposed new subsection (d) to Local Rule 27 formalizes existing authority delegated to the clerk pursuant to Fed. R. App. P. 27(b). To make it easier to identify clerk’s orders, the court proposes to change their format. A proposed new subsection (c) to Internal Operating Procedure V explains how to identify clerk’s orders as of the effective date of the amendment.

A proposed amendment to subsection (b) of Internal Operating Procedure V clarifies existing court practice in processing motions. The court does not ordinarily await the filing of a reply to a response before acting on a motion and response. If a movant intends to file a reply to a response, the movant should promptly notify the court of the intended filing.

The Court of Appeals invites public comments on the proposed amendments. Comments should be received by January 30, 2006, and addressed to:

Office of the Clerk  
U.S. Court of Appeals for the First Circuit  
John Joseph Moakley United States Courthouse  
1 Courthouse Way, Suite 2500  
Boston, Massachusetts 02210

December 27, 2005

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Richard Cushing Donovan

## **Local Rule 27. Motions**

- (d) **Motions Decided by the Clerk.** The clerk is authorized to dispose of certain routine, procedural motions in accordance with the Court's instruction. Any party adversely affected by the action of the clerk on a motion may promptly move for reconsideration. Unless the clerk grants reconsideration, the motion for reconsideration will be submitted to a single judge or panel. See Internal Operating Procedure V(C).*

## Internal Operating Procedure V. Motion Procedures

**A. General.** In accordance with Fed. R. App. P. 27(d) (3), all motions must be accompanied by 3 copies, and a proof of service showing the type of service that was made, i.e., by mail or by hand delivery. The date of service establishes the due date for filing the response per Fed. R. App. P. 27(a)(3).

**B. Processing.** All motions must be filed with the clerk. The single judge matters are transmitted to a single judge and the matters calling for three judge action are transmitted to a three judge panel. The motion judge and the motion panel duties are rotated among the judges of this Court. All motions are decided without oral argument, unless the Court orders otherwise. The motions are submitted to the Court after the *response time* ~~return times~~ provided in the Fed. R. App. P. 27(a)(3)(A) *has have* run except for (1) routine procedural motions which are usually processed forthwith, and (2) emergency motions which may be handled on an expedited basis. *The Court will not ordinarily await the filing of a reply to a response before acting on a motion and response. If a movant intends to file a reply to a response, the movant shall promptly notify the clerk of the intended filing.*

**C. Disposition By the Clerk.** Pursuant to Fed. R. App. P. 27(b) and 1<sup>st</sup> Cir. R. 27(d), the clerk is authorized to dispose of certain routine, procedural motions in accordance with the Court's instructions. Typical examples include motions for an enlargement of time, to consolidate, to correct filings, to correct captions, and to withdraw as counsel. *Effective [insert date i.o.p. becomes effective], clerk's orders are identifiable by their form: a clerk's order states on its face that it is entered pursuant to 1<sup>st</sup> Cir. R. 27(d).*

**D €. Emergencies.** If counsel anticipates that a matter may arise requiring emergency action by the court outside of ordinary business hours, the court's local rules advise counsel to contact the Clerk's Office at the earliest opportunity to discuss the matter. Depending on the circumstances, the Clerk's Office, in consultation with the duty judge and the Staff Attorney's Office, may make special arrangements for after hours filings and responses, issuance of orders after hours, and similar matters. Counsel are further advised that in all emergency matters, whether or not action outside of ordinary business hours is required, the process is facilitated if counsel contacts the Clerk's Office in advance and the motion seeking expedited relief clearly indicates the date by which a ruling is requested and the reasons supporting expedition.